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File #: CVSP3 0384J22 MCS  
*Attorneys for Defendants NEW JERSEY CVS PHARMACY, LLC and CVS PHARMACY INC.*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**CAROLEANN TORONTO,**

**Plaintiff(s),**

**VS.**

**NEW JERSEY CVS PHARMACY LLC,  
CVS PHARMACY, INC., WARETOWN  
ALLEN, LLC, NEIL APPEL, JOHN  
DOES 1-10 and JANE DOES 1-10 (a series  
of fictitious names describing other  
owners/occupiers, lessors/lessees,  
management companies, managers, agents,  
employees, agents or servants or other  
individuals who are associated, affiliated or  
employed by any of the foregoing  
defendants whose responsibilities and/or  
duties include the inspection, maintenance  
and care of the area where the plaintiff s  
accident occurred and ABC CORP. 1- 10 (a  
series of fictitious names describing other  
owners/operators, lessors/lessees'  
persons/entities, natural or corporate who  
are responsible for maintenance, inspection  
and safety on said premises, or who created  
or caused to be created certain dangerous  
and hazardous conditions that led to  
Plaintiff s injuries)**

**Defendant(s).**

**CASE NO. \_\_\_\_\_**

**From: Superior Court of New Jersey,  
Law Division, Middlesex County,  
Docket No. MID-L-2261-22**

**NOTICE OF REMOVAL**

**TO THE CLERK OF THE COURT:**

**PLEASE TAKE NOTICE** that, pursuant to 28 U.S.C. §§ 1332 defendants, *NEW JERSEY CVS PHARMACY, LLC and CVS PHARMACY INC.*, through the undersigned attorneys,

hereby remove the above-captioned civil action, and all claims and causes of action therein, from the Superior Court of New Jersey, Law Division, Middlesex County Vicinage, to the United States District Court for the District of New Jersey, Newark Vicinage.

**JURISDICTION & AUTHORITY FOR REMOVAL**

1. On May 11, 2022, plaintiff commenced this action by filing a Complaint in the Superior Court of New Jersey, Law Division, Middlesex County (“the State Action”). The Complaint names *NEW JERSEY CVS PHARMACY, LLC and CVS PHARMACY INC.*, WARETOWN ALLEN LLC, and NEIL APPEL as defendants.

2. A copy of the Complaint in the State Action is annexed hereto as **EXHIBIT A**.

3. The Federal District of New Jersey, Newark Vicinage, encompasses Middlesex County.

4. This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. §§ 1332 because there exists diversity of citizenship between the plaintiffs and defendants and, upon information and belief, the amount in controversy exceeds the sum of \$75,000.00 exclusive of interests and costs.

5. Under the provisions of 28 U.S.C. §1441, the right exists to remove this civil action from the Superior Court of the State New Jersey, Middlesex County, to the United States District Court for the District of New Jersey, Newark Vicinage, which embraces the place where this action is pending. In the Complaint, Plaintiff, Caroleann Toronto, seeks judgment as a result of personal injuries allegedly sustained as a result of a trip and fall accident that allegedly occurred on May 11, 2021, in the CVS store located at 452 Route 9, Waretown, County of Ocean and state of New Jersey.

6. Service was effectuated by the plaintiff on May 17, 2022. As such, removal of this matter is timely pursuant to 28 U.S.C. §§ 1446(b).

7. This action involves a controversy between citizens of different States. The plaintiff is, and was at the commencement of the action, a citizen of Bergen County New Jersey. The Defendant, NEW JERSEY CVS PHARMACY, LLC is a domestic limited liability company, registered in the State of New Jersey. The citizenship of a limited liability company is determined by the citizenship of its members. *See Carden v. Arkoma Assocs.*, 494 U.S. 185, 110 S.Ct. 1015 (1990); *Quantlab Fin., LLC, Quantlab Tech. Ltd. (BVI) v Tower Research Capital, LLC*, 715 F Supp 2d 542 (S.D.N.Y. 2010). CVS PHARMACY, INC. is the sole member of Defendant NEW JERSEY CVS PHARMACY, LLC and is a foreign business corporation at all times having its principal place of business at One CVS Drive, Woonsocket, Rhode Island, 02895, and having been registered as a corporation in the State of Rhode Island. As such, the Defendants, NEW JERSEY CVS PHARMACY, LLC and CVS PHARMACY, INC, have Rhode Island citizenship for purposes of diversity jurisdiction.

Upon information and belief, the Co-Defendant, WARETOWN ALLEN LLC, is a Domestic Limited Liability Company, registered in the State of New Jersey, whose sole member is ALLEN REALTY COMPANY. The citizenship of a limited liability company is determined by the citizenship of its members. *See Carden v. Arkoma Assocs.*, 494 U.S. 185, 110 S.Ct. 1015 (1990); *Quantlab Fin., LLC, Quantlab Tech. Ltd. (BVI) v Tower Research Capital, LLC*, 715 F Supp 2d 542 (S.D.N.Y. 2010). Upon information and belief, ALLEN REALTY COMPANY has its principal place of business in the State of New York. As such, the Co-Defendant, WARETOWN ALLEN LLC, has New York citizenship for purposes of diversity jurisdiction.

Upon information and belief, the individual named defendant, NEAL APPEL (i/s/h/a NEIL APPEL), has absolutely nothing to do with this litigation other than possibly being

included to defeat complete diversity. NEAL APPEL was previously employed as a staff pharmacist at the Waretown CVS. However, he has not been employed by CVS for over thirteen (13) years. As such, he has nothing to do with this litigation and plaintiff should not be permitted to include him as a named defendant, simply to defeat complete diversity.

8. No Answer has been filed by or on behalf of NEW JERSEY CVS PHARMACY, LLC, CVS PHARMACY INC. or any other defendant, in the State Action.

9. No other process, pleadings, or orders have been served on NEW JERSEY CVS PHARMACY, LLC or CVS PHARMACY, INC. in the State Action.

10. Upon information and belief, Plaintiff's amount in controversy exceeds the \$75,000.00 threshold. Plaintiffs' Complaint does not specify the amount of damages because under the New Jersey Rules of Court, Rule 4:5-2, a plaintiff in a personal injury matter seeking unliquidated damages in the Superior Court, Law Division, is not permitted to assert the damages amount in the Complaint. The Complaint sets forth general allegations that Plaintiff Caroleann Toronto sustained severe and permanent injuries that cause her to endure pain and suffering. Based on information obtained from plaintiff's counsel, the plaintiff claims to have sustained injury to her right and her head, which resulted in a subdural hematoma which required evacuation. If these allegations are ultimately proven, all of which are expressly denied, then a verdict in this matter could exceed \$75,000.00. Therefore, the District Court has jurisdiction over this action.

#### **NOTICE TO PLAINTIFFS AND SUPERIOR COURT OF REMOVAL**

11. The defendants, NEW JERSEY CVS PHARMACY, LLC and CVS PHARMACY INC., through their attorney, will promptly serve a copy of this Notice of Removal on counsel for the plaintiffs, and will promptly file a copy of this Notice of Removal with the

Clerk of the Superior Court, Law Division, Middlesex County Vicinage pursuant to 28 U.S.C. § 1446(d).

**AHMUTY DEMERS & MCMANUS**

BY: /s/ Michael C. Salvo  
MICHAEL C. SALVO, ESQ.

Dated: June 10, 2022